114TH CONGRESS 2D SESSION

H.R.4923

AN ACT

To establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

1 SECTION 1. SHORT TITLE.

- This Act may be cited as the "American Manufac-
- 3 turing Competitiveness Act of 2016".
- 4 SEC. 2. SENSE OF CONGRESS ON THE NEED FOR A MIS-
- 5 CELLANEOUS TARIFF BILL.
- 6 (a) FINDINGS.—Congress makes the following find-7 ings:
- 8 (1) As of the date of the enactment of this Act,
- 9 the Harmonized Tariff Schedule of the United
- 10 States imposes duties on imported goods for which
- there is no domestic availability or insufficient do-
- mestic availability.
- 13 (2) The imposition of duties on such goods cre-
- ates artificial distortions in the economy of the
- 15 United States that negatively affect United States
- manufacturers and consumers.
- 17 (3) The manufacturing competitiveness of the
- 18 United States around the world will be enhanced if
- 19 Congress regularly and predictably updates the Har-
- 20 monized Tariff Schedule to suspend or reduce duties
- on such goods.
- 22 (4) Creating and maintaining an open and
- transparent process for consideration of petitions for
- 24 duty suspensions and reductions builds confidence
- 25 that the process is fair, open to all, and free of
- abuse.

- 1 (5) Complying with the Rules of the House of
 2 Representatives and the Senate, in particular with
 3 clause 9 of rule XXI of the Rules of the House of
 4 Representatives and rule XLIV of the Standing
 5 Rules of the Senate, is essential to fostering and
 6 maintaining confidence in the process for consid7 ering a miscellaneous tariff bill.
 - (6) A miscellaneous tariff bill developed under this process will not contain any—
 - (A) congressional earmarks or limited tax benefits within the meaning of clause 9 of rule XXI of the Rules of the House of Representatives; or
 - (B) congressionally directed spending items or limited tax benefits within the meaning of rule XLIV of the Standing Rules of the Senate.
 - (7) Because any limited tariff benefits contained in any miscellaneous tariff bill following the process set forth by this Act will not have been the subject of legislation introduced by an individual Member of Congress and will be fully vetted through a transparent and fair process free of abuse, it is appropriate for Congress to consider limited tariff benefits as part of that miscellaneous tariff bill as long as—

1	(A) in the case of a miscellaneous tariff bill
2	considered in the House of Representatives,
3	consistent with the Rules of the House of Rep-
4	resentatives, a list of such limited tariff benefits
5	is published in the reports of the Committee on
6	Ways and Means of the House of Representa-
7	tives accompanying the miscellaneous tariff bill,
8	or in the Congressional Record; and
9	(B) in the case of a miscellaneous tariff
10	bill considered in the Senate, consistent with
11	the Standing Rules of the Senate—
12	(i) such limited tariff benefits have
13	been identified through lists, charts, or
14	other similar means; and
15	(ii) the information identified in
16	clause (i) has been available on a publicly
17	accessible congressional website in a
18	searchable format at least 48 hours before
19	the vote on the motion to proceed to the
20	miscellaneous tariff bill or the vote on the
21	adoption of a report of a committee of con-
22	ference in connection with the miscella-
23	neous tariff bill, as the case may be.
24	(8) When the process set forth under paragraph
25	(7) is followed, it is consistent with the letter and in-

- tent of the Rules of the House of Representatives
- and the Senate and other related guidance.
- 3 (b) Sense of Congress.—It is the sense of Con-
- 4 gress that, to remove the competitive disadvantage to
- 5 United States manufacturers and consumers and to pro-
- 6 mote the competitiveness of United States manufacturers,
- 7 Congress should, not later than 90 days after the United
- 8 States International Trade Commission issues a final re-
- 9 port on petitions for duty suspensions and reductions
- 10 under section 3(b)(3)(E), consider a miscellaneous tariff
- 11 bill.
- 12 SEC. 3. PROCESS FOR CONSIDERATION OF PETITIONS FOR
- 13 DUTY SUSPENSIONS AND REDUCTIONS.
- (a) Purpose.—It is the purpose of this section to
- 15 establish a process for the submission and consideration
- 16 of petitions for duty suspensions and reductions.
- 17 (b) REQUIREMENTS OF COMMISSION.—
- 18 (1) Initiation.—Not later than October 15,
- 19 2016, and October 15, 2019, the Commission shall
- 20 publish in the Federal Register and on a publicly
- 21 available Internet website of the Commission a no-
- 22 tice requesting members of the public who can dem-
- onstrate that they are likely beneficiaries of duty
- suspensions or reductions to submit to the Commis-

1	sion during the 60-day period beginning on the date
2	of such publication—
3	(A) petitions for duty suspensions and re-
4	ductions; and
5	(B) Commission disclosure forms with re-
6	spect to such duty suspensions and reductions
7	(2) Content of Petitions.—Each petition
8	for a duty suspension or reduction under paragraph
9	(1)(A) shall include the following information:
10	(A) The name and address of the peti-
11	tioner.
12	(B) A statement as to whether the petition
13	provides for an extension of an existing duty
14	suspension or reduction or provides for a new
15	duty suspension or reduction.
16	(C) A certification that the petitioner is a
17	likely beneficiary of the proposed duty suspen-
18	sion or reduction.
19	(D) An article description for the proposed
20	duty suspension or reduction to be included in
21	the amendment to subchapter II of chapter 99
22	of the Harmonized Tariff Schedule of the
23	United States.
24	(E) To the extent available—

1	(i) a classification of the article for
2	purposes of the amendment to subchapter
3	II of chapter 99 of the Harmonized Tariff
4	Schedule of the United States;
5	(ii) a classification ruling of U.S. Cus-
6	toms and Border Protection with respect
7	to the article; and
8	(iii) a copy of a U.S. Customs and
9	Border Protection entry summary indi-
10	cating where the article is classified in the
11	Harmonized Tariff Schedule of the United
12	States.
13	(F) A brief and general description of the
14	article.
15	(G) A brief description of the industry in
16	the United States that uses the article.
17	(H) An estimate of the total value, in
18	United States dollars, of imports of the article
19	for each of the 5 calendar years after the cal-
20	endar year in which the petition is filed, includ-
21	ing an estimate of the total value of such im-
22	ports by the person who submits the petition
23	and by any other importers, if available.
24	(I) The name of each person that imports
25	the article, if available.

1	(J) A description of any domestic produc-
2	tion of the article, if available.
3	(K) Such other information as the Com-
4	mission may require.
5	(3) Review.—
6	(A) COMMISSION PUBLICATION AND PUB-
7	LIC AVAILABILITY.—As soon as practicable
8	after the expiration of the 60-day period speci-
9	fied in paragraph (1), but in any case not later
10	than 30 days after the expiration of such 60-
11	day period, the Commission shall publish on a
12	publicly available Internet website of the Com-
13	mission—
14	(i) the petitions for duty suspensions
15	and reductions submitted under paragraph
16	(1)(A) that contain the information re-
17	quired under paragraph (2); and
18	(ii) the Commission disclosure forms
19	with respect to such duty suspensions and
20	reductions submitted under paragraph
21	(1)(B).
22	(B) Public comment.—
23	(i) In General.—The Commission
24	shall publish in the Federal Register and
25	on a publicly available Internet website of

1	the Commission a notice requesting mem-
2	bers of the public to submit to the Com-
3	mission during the 45-day period begin-
4	ning on the date of publication described
5	in subparagraph (A) comments on—
6	(I) the petitions for duty suspen-
7	sions and reductions published by the
8	Commission under subparagraph
9	(A)(i); and
10	(II) the Commission disclosure
11	forms with respect to such duty sus-
12	pensions and reductions published by
13	the Commission under subparagraph
14	(A)(ii).
15	(ii) Publication of comments.—
16	The Commission shall publish a notice in
17	the Federal Register directing members of
18	the public to a publicly available Internet
19	website of the Commission to view the
20	comments of the members of the public re-
21	ceived under clause (i).
22	(C) Preliminary report.—
23	(i) In general.—As soon as prac-
24	ticable after the expiration of the 120-day
25	period beginning on the date of publication

described in subparagraph (A), but in any 1 2 case not later than 30 days after the expi-3 ration of such 120-day period, the Commission shall submit to the appropriate congressional committees a preliminary re-6 port on the petitions for duty suspensions 7 and reductions submitted under paragraph 8 (1)(A). The preliminary report shall con-9 tain the following information with respect 10 to each petition for a duty suspension or reduction: 12 (I) The heading or subheading of

the Harmonized Tariff Schedule of the United States in which each article that is the subject of the petition for the duty suspension or reduction is classified, as identified by documentation supplied to the Commission, and any supporting information obtained by the Commission.

(II) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists, taking into account the report

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1	of the Secretary of Commerce under
2	subsection (c)(1), and, if such produc-
3	tion exists, whether or not a domestic
4	producer of the article objects to the
5	duty suspension or reduction.
6	(III) Any technical changes to
7	the article description of the article
8	that is the subject of the petition for
9	the duty suspension or reduction that
10	are necessary for purposes of adminis-
11	tration when the article is presented
12	for importation, taking into account
13	the report of the Secretary of Com-
14	merce under subsection (c)(2).
15	(IV) An estimate of the amount
16	of loss in revenue to the United States
17	that would no longer be collected if
18	the duty suspension or reduction
19	takes effect.
20	(V) A determination of whether
21	or not the duty suspension or reduc-
22	tion is available to any person that
23	imports the article that is the subject
24	of the duty suspension or reduction.

1	(VI) The likely beneficiaries of
2	each duty suspension or reduction, in-
3	cluding whether the petitioner is a
4	likely beneficiary.
5	(ii) Categories of Information.—
6	The preliminary report submitted under
7	clause (i) shall also contain the following
8	information:
9	(I) A list of petitions for duty
10	suspensions and reductions that meet
11	the requirements of this Act without
12	modifications.
13	(II) A list of petitions for duty
14	suspensions and reductions for which
15	the Commission recommends technical
16	corrections in order to meet the re-
17	quirements of this Act, with the cor-
18	rection specified.
19	(III) A list of petitions for duty
20	suspensions and reductions for which
21	the Commission recommends modi-
22	fications to the amount of the duty
23	suspension or reduction that is the
24	subject of the petition to comply with

1	the requirements of this Act, with the
2	modification specified.
3	(IV) A list of petitions for duty
4	suspensions and reductions for which
5	the Commission recommends modi-
6	fications to the scope of the articles
7	that are the subject of such petitions
8	to address objections by domestic pro-
9	ducers to such petitions, with the
10	modifications specified.
11	(V) A list of the following:
12	(aa) Petitions for duty sus-
13	pensions and reductions that the
14	Commission has determined do
15	not contain the information re-
16	quired under paragraph (2).
17	(bb) Petitions for duty sus-
18	pensions and reductions with re-
19	spect to which the Commission
20	has determined the petitioner is
21	not a likely beneficiary.
22	(VI) A list of petitions for duty
23	suspensions and reductions that the
24	Commission does not recommend for
25	inclusion in a miscellaneous tariff bill,

1	other than petitions specified in sub-
2	clause (V).
3	(D) ADDITIONAL INFORMATION.—The
4	Commission shall consider any information sub-
5	mitted by the appropriate congressional com-
6	mittees to the Commission relating to moving a
7	petition that is contained in the list referred to
8	in subclause (VI) of subparagraph (C)(ii) of the
9	preliminary report submitted under subpara-
10	graph (C) to a list referred to in subclause (I)
11	(II), (III), or (IV) of subparagraph (C)(ii).
12	(E) Final Report.—Not later than 60
13	days after the date on which the preliminary re-
14	port is submitted under subparagraph (C), the
15	Commission shall submit to the appropriate
16	congressional committees a final report on each
17	petition for a duty suspension or reduction
18	specified in the preliminary report. The final re-
19	port shall contain with respect to each such pe-
20	tition—
21	(i) the information required under
22	clauses (i) and (ii) of subparagraph (C)
23	and updated as appropriate under sub-
24	paragraph (D); and

1	(ii) a determination of the Commis-
2	sion whether—
3	(I) the duty suspension or reduc-
4	tion can likely be administered by
5	U.S. Customs and Border Protection;
6	(II) the estimated loss in revenue
7	to the United States from the duty
8	suspension or reduction does not ex-
9	ceed \$500,000 in a calendar year dur-
10	ing which the duty suspension or re-
11	duction would be in effect; and
12	(III) the duty suspension or re-
13	duction is available to any person im-
14	porting the article that is the subject
15	of the duty suspension or reduction.
16	(F) Exclusions.—The appropriate con-
17	gressional committees may exclude from a mis-
18	cellaneous tariff bill any petition for a duty sus-
19	pension or reduction that—
20	(i) is contained in any list referred to
21	in subclause (I), (III), (III), or (IV) of sub-
22	paragraph (C)(ii), as updated as appro-
23	priate under subparagraph (E)(i);
24	(ii) is the subject of an objection from
25	a Member of Congress; or

1	(iii) is for an article for which there is
2	domestic production.

- (G) ESTIMATES BY THE CONGRESSIONAL BUDGET OFFICE.—For purposes of reflecting the estimate of the Congressional Budget Office, the appropriate congressional committees shall adjust the amount of a duty suspension or reduction in a miscellaneous tariff bill only to assure that the estimated loss in revenue to the United States from that duty suspension or reduction, as estimated by the Congressional Budget Office, does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect.
- (H) PROHIBITIONS.—Any petitions for duty suspensions or reductions that are contained in any list referred to in subclause (V) or (VI) of subparagraph (C)(ii), as updated as appropriate under subparagraph (E)(i), or have not otherwise undergone the processes required by this Act shall not be included in a miscellaneous tariff bill.
- (4) Confidential business information the release of confidential business information set forth in section 332(g)

- of the Tariff Act of 1930 (19 U.S.C. 1332(g)) shall apply with respect to information received by the Commission in posting petitions on a publicly available website of the Commission and in preparing reports under this subsection.
- 6 (5) PROCEDURES.—The Commission shall pre-7 scribe and publish in the Federal Register and on a 8 publicly available Internet website of the Commis-9 sion procedures to be complied with by members of 10 the public submitting petitions for duty suspensions 11 and reductions under subsection (b)(1)(A).
- 12 (c) Department of Commerce Report.—Not later than the end of the 90-day period beginning on the date of publication of the petitions for duty suspensions 14 15 and reductions under subsection (b)(3)(A), the Secretary of Commerce, in consultation with U.S. Customs and Bor-16 der Protection and other relevant Federal agencies, shall 18 submit to the Commission and the appropriate congres-19 sional committees a report on each petition for a duty sus-20 pension or reduction submitted under subsection (b)(1)(A) 21 that includes the following information:
 - (1) A determination of whether or not domestic production of the article that is the subject of the petition for the duty suspension or reduction exists and, if such production exists, whether or not a do-

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- 1 mestic producer of the article objects to the petition 2 for the duty suspension or reduction.
- 3 (2) Any technical changes to the article descrip-4 tion that are necessary for purposes of administra-5 tion when articles are presented for importation.

6 SEC. 4. REPORT ON EFFECTS OF DUTY SUSPENSIONS AND

7 REDUCTIONS ON UNITED STATES ECONOMY.

- 8 (a) In General.—Not later than 12 months after
- 9 the date of the enactment of a miscellaneous tariff bill,
- 10 the Commission shall submit to the appropriate congres-
- 11 sional committees a report on the effects on the United
- 12 States economy of duty suspensions and reductions en-
- 13 acted pursuant to this Act, including a broad assessment
- 14 of the economic effects of such duty suspensions and re-
- 15 ductions on producers, purchasers, and consumers in the
- 16 United States, using case studies describing such effects
- 17 on selected industries or by type of article as available
- 18 data permit.
- 19 (b) Recommendations.—The Commission shall also
- 20 solicit and append to the report required under subsection
- 21 (a) recommendations with respect to those domestic indus-
- 22 try sectors or specific domestic industries that might ben-
- 23 efit from permanent duty suspensions and reductions, ei-
- 24 ther through a unilateral action of the United States or
- 25 though negotiations for reciprocal tariff agreements, with

- 1 a particular focus on inequities created by tariff inver-
- 2 sions.
- 3 (c) FORM OF REPORT.—Each report required by this
- 4 section shall be submitted in unclassified form, but may
- 5 include a classified annex.
- 6 SEC. 5. PUBLICATION OF LIMITED TARIFF BENEFITS IN
- 7 THE HOUSE OF REPRESENTATIVES AND THE
- 8 SENATE.
- 9 (a) House of Representatives.—
- (1) IN GENERAL.—The chair of the Committee 10 11 on Ways and Means of the House of Representatives 12 shall include a list of limited tariff benefits con-13 tained in a miscellaneous tariff bill in the report to 14 accompany such a bill or, in a case where a miscella-15 neous tariff bill is not reported by the committee, 16 shall cause such a list to be printed in the appro-17 priate section of the Congressional Record.
 - (2) LIMITED TARIFF BENEFIT DEFINED.—For purposes of this subsection and consistent with clause 9 of rule XXI of the Rules of the House of Representatives, as in effect during the One Hundred Fourteenth Congress, the term "limited tariff benefit" means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

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(b) Senate.—

- (1) IN GENERAL.—The chairman of the Committee on Finance of the Senate, the Majority Leader of the Senate, or the designee of the Majority Leader of the Senate, shall provide for the publication in the Congressional Record of a certification that—
 - (A) each limited tariff benefit contained in a miscellaneous tariff bill considered in the Senate has been identified through lists, charts, or other similar means; and
 - (B) the information identified in subparagraph (A) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before the vote on the motion to proceed to the miscellaneous tariff bill or the vote on the adoption of a report of a committee of conference in connection with the miscellaneous tariff bill, as the case may be.
- (2) Satisfaction of Senate Rules.—Publication of a certification in the Congressional Record under paragraph (1) satisfies the certification requirements of paragraphs 1(a), 2(a), and 3(a) of rule XLIV of the Standing Rules of the Senate.

- 1 (3) Limited tariff benefit defined.—For
- 2 purposes of this subsection and consistent with rule
- 3 XLIV of the Standing Rules of the Senate, as in ef-
- 4 fect during the One Hundred Fourteenth Congress,
- 5 the term "limited tariff benefit" means a provision
- 6 modifying the Harmonized Tariff Schedule of the
- 7 United States in a manner that benefits 10 or fewer
- 8 entities.
- 9 (c) Enactment as Exercise of Rulemaking
- 10 Power of House of Representatives and Sen-
- 11 ATE.—This section is enacted by Congress—
- 12 (1) as an exercise of the rulemaking power of
- the House of Representatives and the Senate, re-
- spectively, and as such are deemed a part of the
- 15 rules of each House, respectively, and such proce-
- dures supersede other rules only to the extent that
- they are inconsistent with such other rules; and
- 18 (2) with full recognition of the constitutional
- right of either House to change the rules (so far as
- relating to the procedure of that House) at any time,
- in the same manner, and to the same extent as in
- the case of any other rule of that House.
- 23 SEC. 6. JUDICIAL REVIEW PRECLUDED.
- The exercise of functions under this Act shall not be
- 25 subject to judicial review.

1	SEC. 7. DEFINITIONS.
2	In this Act:
3	(1) Appropriate congressional commit-
4	TEES.—The term "appropriate congressional com-
5	mittees" means the Committee on Ways and Means
6	of the House of Representatives and the Committee
7	on Finance of the Senate.
8	(2) Commission.—The term "Commission"
9	means the United States International Trade Com-
10	mission.
11	(3) Commission disclosure form.—The
12	term "Commission disclosure form" means, with re-
13	spect to a petition for a duty suspension or reduc-
14	tion, a document submitted by a petitioner to the
15	Commission that contains the following:
16	(A) The contact information for any known
17	importers of the article to which the proposed
18	duty suspension or reduction would apply.
19	(B) A certification by the petitioner that
20	the proposed duty suspension or reduction is
21	available to any person importing the article to
22	which the proposed duty suspension or reduc-
23	tion would apply.
24	(C) A certification that the petitioner is a
25	likely beneficiary of the proposed duty suspen-

sion or reduction.

- 1 (4) DOMESTIC PRODUCER.—The term "domes2 tic producer" means a person that demonstrates
 3 production, or imminent production, in the United
 4 States of an article that is identical to, or like or di5 rectly competitive with, an article to which a petition
 6 for a duty suspension or reduction would apply.
 - (5) Domestic production.—The term "domestic production" means the production of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply, for which a domestic producer has demonstrated production, or imminent production, in the United States.
 - (6) Duty suspension or reduction.—The term "duty suspension or reduction" refers to an amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States for a period not to exceed 3 years that—
 - (A) extends an existing temporary duty suspension or reduction on an article under that subchapter; or
 - (B) provides for a new temporary duty suspension or reduction on an article under that subchapter.

1	(7) LIKELY BENEFICIARY.—The term "likely
2	beneficiary" means an individual or entity likely to
3	utilize, or benefit directly from the utilization of, an
4	article that is the subject of a petition for a duty
5	suspension or reduction.
6	(8) Member of congress.—The term "Mem-
7	ber of Congress" means a Senator or Representative
8	in, or Delegate or Resident Commissioner to, Con-
9	gress.
10	(9) MISCELLANEOUS TARIFF BILL.—The term
11	"miscellaneous tariff bill" means a bill of either
12	House of Congress that contains only duty suspen-
13	sions and reductions and related technical correc-
14	tions that—
15	(A) are included in the final report of the
16	Commission submitted to the appropriate con-
17	gressional committees under section $3(b)(3)(E)$,
18	except for—
19	(i) petitions for duty suspensions or
20	reductions that the Commission has deter-
21	mined do not contain the information re-
22	quired under section 3(b)(2);
23	(ii) petitions for duty suspensions and
24	reductions with respect to which the Com-

1	mission has determined the petitioner is
2	not a likely beneficiary; and
3	(iii) petitions for duty suspensions and
4	reductions that the Commission does not
5	recommend for inclusion in the miscella-
6	neous tariff bill;
7	(B) are not excluded under section
8	3(b)(3)(F); and
9	(C) otherwise meet the applicable require-
10	ments of this Act.
	Passed the House of Representatives April 27, 2016.
	Attest:

Clerk.

114TH CONGRESS H. R. 4923

AN ACT

To establish a process for the submission and consideration of petitions for temporary duty suspensions and reductions, and for other purposes.